

EXHIBIT A

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From: Hall, Veronica Arechederra (Las Vegas)
Sent: Friday, December 11, 2015 3:10 PM
To: 'Mike Pangia'
Cc: Sean W. McDonald (SMcDonald@theurbanlawfirm.com); Anderson, Steven C. (Las Vegas)
Subject: RE: Kinzer v Allegiant

Mr. Pangia,

Thank you for your email concerning the removal of Plaintiff's case to Federal Court. I understand your position and am familiar with *Caterpillar Inc.* Further, I understand that while the requirements of diversity under Section 1332 are satisfied, removal under Section 1441(b) would be improper. I disagree, however, with your assessment of federal question jurisdiction and the well pleaded complaint rule.

While federal question jurisdiction generally extends to federal questions as they appear on the face of a well-pleaded complaint, there are notable exceptions. Federal jurisdiction will not be defeated when the complaint is artfully pleaded to avoid a specific federal claim. In addition, removal is proper when state law has been completely preempted by an area of federal law. Finally, the federal court will have jurisdiction, and removal is proper, when federal law creates the cause of action or where the plaintiff's right to relief necessarily depends on resolution of a substantial question of federal law. All three bases support federal question jurisdiction and justify Allegiant's Petition for Removal.

Plaintiff's Complaint goes far beyond mere references to the FAA and related Regulations. Indeed, federal law permeates the Complaint and poses several substantial questions of federal law that must be resolved for Plaintiff's claims to succeed. For example, the duty of care referenced numerous times in the Complaint is a federal duty of care imposed by the Regulations promulgated under the FAA. Plaintiff, by alleging he complied with the federal standard while Allegiant did not, has placed the resolution of federal law squarely before the Court. Further, Plaintiff alleges on several occasions that he was retaliated against for abiding by the federal

Dear Ms. Hall and Mr. Anderson:

We, along with the Urban Law firm, are representing the plaintiff, Jason Kinzer, and are reaching out to you concerning the recent Notice of Removal to the Federal Court. We see no legal basis for this removal and no case law that would support it in any way. Although Federal Aviation Regulations may be referenced in the cause of action, this is obviously a state cause of action and not one existing by reason of federal law. Under the well-pleaded complaint rule Federal District Courts do not have original jurisdiction unless the federal issue appears on the face of the complaint. *Caterpillar Inc v Williams* 482 U.S. 386,392 (1987). This action is not removable under diversity jurisdiction since Allegiant is a citizen of the State of Nevada. See: 28 U.S.C. § 1441(b). In order not to waste time and expense of both parties as well as the Court, we invite you to join us in a motion for remand.

Should you wish to discuss this further or if you believe we have misinterpreted the law, please feel free to give a call at 202 955 6450. Mike Pangia

EXHIBIT B

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| No. | Date | Firm | Timekeeper | Time | Cost | Description | Block Billing? | Duplication? | Intra-Attorney Communication? |
|-----|------------|--------|------------|------|-------------|---|----------------|--------------------------------|-------------------------------|
| 1 | 12/7/2015 | Urban | SWM | 0.30 | \$ 67.50 | Read notice of removal to federal court. Email to Mike Pangia re same. | Yes | Yes, <u>see</u> 2 | Yes |
| 2 | 12/7/2015 | Urban | MAU | 0.40 | \$ 120.00 | Review notice of removal pleadings to Federal Court; Conference with SWM | Yes | Yes, <u>see</u> 1 | Yes |
| 3 | 12/7/2015 | Pangia | ACD | 5.00 | \$ 1,125.00 | Research on motions to remand, federal jurisdiction and ADA | Yes | Yes, <u>see</u> 10 | |
| 4 | 12/8/2015 | Urban | SWM | 0.10 | \$ 22.50 | Email from Mike Pangia re Notice of removal and damages expert. | No | No | Yes |
| 5 | 12/8/2015 | Urban | MAU | 0.30 | \$ 90.00 | Conference with SWM re response to removal by Allegiant; Review email from co-counsel to opposing counsel | Yes | No | Yes |
| 6 | 12/8/2015 | Urban | SWM | 0.10 | \$ 22.50 | Email from MAU re motion to remand; reply. | Yes | No | Yes |
| 7 | 12/8/2015 | Urban | SWM | 0.10 | \$ 22.50 | Telephone call from Mike Pangia re Motion for remand and fee agreement | No | No | Yes |
| 8 | 12/8/2015 | Pangia | ACD | 3.00 | \$ 675.00 | Draft of motion for remand | No | Yes, <u>see</u> 12, 13, 14, 17 | No |
| 9 | 12/9/2015 | Urban | SWM | 0.10 | \$ 22.50 | Email from Mike Pangia re motion for remand; reply. | Yes | No | Yes |
| 10 | 12/9/2015 | Pangia | MJP | 1.50 | \$ 600.00 | Review of cases dealing with removal and remand and draft an outline for remand motion | Yes | Yes, <u>see</u> 3 | No |
| 11 | 12/10/2015 | Urban | SWM | 0.20 | \$ 45.00 | Emails from Mike Pangia and Doug Desjardins re motion to remand | Yes | No | Yes |
| 12 | 12/10/2015 | Pangia | MJP | 0.50 | \$ 200.00 | Review and revisions of motion to remand | Yes | Yes, <u>see</u> 8, 13, 14, 17 | No |
| 13 | 12/10/2015 | Pangia | ACD | 2.50 | \$ 562.50 | Draft of final motion after review and corrections | No | Yes, <u>see</u> 8, 12, 14, 17 | No |
| 14 | 12/11/2015 | Urban | SWM | 3.10 | \$ 697.50 | Read and edit motion to remand; read caselaw cited in motion to remand | Yes | Yes, <u>see</u> 8, 12, 13, 17 | |
| 15 | 12/11/2015 | Urban | SWM | 0.10 | \$ 22.50 | Email to Mike Pangia et al. re motion to remand | No | No | Yes |

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|-----|------------|-------|------------|------|-----------|---|----------------|--------------------------------|-------------------------------|
| 16 | 12/11/2015 | Urban | SWM | 0.10 | \$ 22.50 | Email from Steven Anderson re stipulation on answer deadline; review stipulation; reply to Steven Anderson re same. | Yes | No | No |
| 17 | 12/11/2015 | Urban | SWM | 0.70 | \$ 157.50 | Further edits to motion to remand. | No | Yes, <u>see</u> 8, 12, 13, 14 | |
| 18 | 12/11/2015 | Urban | SWM | 0.10 | \$ 22.50 | Conference with MAU re motion to remand | No | No | Yes |
| 19 | 12/11/2015 | Urban | SWM | 0.10 | \$ 22.50 | Email to Steven Anderson re stipulation on answer deadline. Email to Mike Pangia re same. | Yes | No | Yes |
| 20 | 12/11/2015 | Urban | SWM | 0.20 | \$ 45.00 | Email to Veronica Arechedarra Hall re basis of removal to federal court; email to MAU re same. | Yes | No | Yes |
| 21 | 12/11/2015 | Urban | MAU | 0.30 | \$ 90.00 | Telephone call from opposing counsel re Answer to complaint and extension for Motion for removal; Memo to SWM | Yes | No | Yes |
| 22 | 12/11/2015 | Urban | SWM | 1.30 | \$ 292.50 | Cite-check motion to remand | No | Yes, <u>see</u> 14 | No |
| 23 | 12/14/2015 | Urban | KTO | 0.20 | | Draft, finalize and file Certificate of Interested Parties with USDC online via ECF | No | Yes, <u>see</u> 24 | No |
| 24 | 12/14/2015 | Urban | SWM | 0.10 | \$ 22.50 | Review and sign certificate of interested parties. | No | Yes, <u>see</u> 23 | No |
| 25 | 12/14/2015 | Urban | MAU | 0.20 | \$ 60.00 | Review motion for remand and email from opposing counsel. | Yes | Yes, <u>see</u> 12, 13, 14, 17 | |
| 26 | 12/17/2015 | Urban | KTO | 0.10 | \$ 0.10 | Conference with SWM re status of pro hac applications. | No | No | Yes |
| 27 | 12/17/2015 | Urban | SWM | 0.10 | \$ 22.50 | Email from KTO re follow up on pro hac vice application for Mike Pangia. | No | No | Yes |
| 28 | 12/18/2015 | Urban | SWM | 0.10 | \$ 22.50 | Email from Doug Desjardins re motion to remand to state court and allegiant's motion to dismiss. | No | No | Yes |
| 29 | 1/4/2016 | Urban | SWM | 0.30 | \$ 67.50 | Telephone call from Mike Pangia re reply to response to motion to remand and response to motion to dismiss | No | No | Yes |

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|-----|-----------|--------|------------|------|-----------|---|----------------|--------------------------------|-------------------------------|
| 30 | 1/4/2016 | Urban | MAU | 0.50 | \$ 150.00 | Review opposition to Motion for Remand; Conference with SWM | Yes | Yes, <u>see</u> 32, 33, 36 | Yes |
| 31 | 1/6/2016 | Urban | SWM | 0.30 | \$ 67.50 | Email from Steve Anderson re joint status report on removed case. Review joint status report. Reply to Steve Anderson. | Yes | No | No |
| 32 | 1/6/2016 | Pangia | MJP | 0.50 | \$ 200.00 | Review of defendants' 22-page opposition and discussion with associate for draft of reply. | Yes | Yes, <u>see</u> 30, 33, 36 | Yes |
| 33 | 1/7/2016 | Urban | SWM | 2.50 | \$ 562.50 | Read and analyze Defendants' response to motion to remand. | No | Yes, <u>see</u> 30, 32, 33 | Yes |
| 34 | 1/7/2016 | Urban | SWM | 3.40 | \$ 765.00 | Read caselaw cited in response to motion to remand. | No | Yes, <u>see</u> 36 | No |
| 35 | 1/7/2016 | Pangia | MJP | 0.30 | \$ 120.00 | Review of draft of reply to defendants' response to plaintiff's motion for remand | No | Yes, <u>see</u> 40 | No |
| 36 | 1/7/2016 | Pangia | ACD | 3.50 | \$ 787.50 | Review of defendants' 22-page opposition and research of cases | Yes | Yes, <u>see</u> 30, 32, 33, 34 | No |
| 37 | 1/8/2016 | Urban | SWM | 0.10 | \$ 22.50 | Email from Doug Desjardins re reply to response to remand motion | No | No | Yes |
| 38 | 1/8/2016 | Pangia | ACD | 2.50 | \$ 562.50 | Draft of reply and filing | Yes | No | No |
| 39 | 1/11/2016 | Urban | SWM | 0.10 | \$ 22.50 | Email to Mike Pangia et al. re reply to response to motion to remand. | No | No | Yes |
| 40 | 1/11/2016 | Urban | MAU | 0.20 | \$ 60.00 | Review reply on motion to remand; Conference with SWM. | Yes | Yes, <u>see</u> 35 | Yes |
| 41 | 1/13/2016 | Urban | KTO | 0.20 | \$ 20.00 | Review Mike Pangia's Federal Court Pro Hac Vice Application; Conference with Mau and SWM re missing information needed from Mike Pangia, co-counsel, to complete application. | Yes | Yes, <u>see</u> 42 | Yes |
| 42 | 2/18/2016 | Pangia | MJP | 1.50 | \$ 600.00 | Preparation for application for admission pro hac vice and procurement of notary on 2/19/2016 | Yes | Yes, <u>see</u> 41 | No |
| 43 | 4/5/2016 | Pangia | JLA | 1.50 | \$ 600.00 | Preparation for application for admission pro hac vice | No | No | No |

| No. | Date | Firm | Timekeeper | Time | Cost | Description | Block Billing? | Duplication? | Intra-Attorney Communication? |
|-------|---------------|--------|------------|-------|--------------|---|----------------|--------------|-------------------------------|
| 44 | 06/13-15/2016 | Pangia | MJP | 4.50 | \$ 1,800.00 | Preparation and filing of brief and declaration for fees relating to removal and remand | Yes | No | No |
| Total | | | | 42.80 | \$ 11,482.60 | | | | |